

**ASSEMBLY BILL**

**No. 533**

**Introduced by Assembly Member Negrete McLeod**

February 16, 2005

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An act to amend Section 3247 of the Civil Code, relating to works of improvement.

LEGISLATIVE COUNSEL'S DIGEST

AB 533, as introduced, Negrete McLeod. Public works of improvement: payment bonds.

Existing law provides that every original contractor to whom is awarded a contract by a public entity, except as specified, involving an expenditure in excess of \$25,000 for any public work shall, before entering upon the performance of the work, file a payment bond, as specified.

This bill would provide that whenever an original contractor's agreement is assigned to a 3rd party, the 3rd party shall be required to provide a payment bond. By requiring additional duties of local public entities with regard to payment bonds, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 3247 of the Civil Code is amended to read:

3247. (a) Every original contractor to whom is awarded a contract by a public entity, except as provided in subdivision (d) of Section 7103 of the Public Contract Code, involving an expenditure in excess of twenty-five thousand dollars (\$25,000) for any public work shall, before entering upon the performance of the work, file a payment bond with and approved by the officer or public entity by whom the contract was awarded.

A public entity shall state in its call for bids for any such contract that a payment bond is required in the case of such an expenditure.

(b) *Whenever an original contractor's agreement is assigned to a third party, the third party shall be required to provide a payment bond.*

(c) A payment bond filed and approved in accordance with this section shall be sufficient to enter upon the performance of work under a duly authorized contract which supplements the contract for which such payment bond was filed, if the requirement of a new bond is waived by the public entity.

~~(e)~~

(d) For purposes of this section, providers of architectural, engineering, and land surveying services pursuant to a contract with a public entity for any public work shall not be deemed an original contractor and shall not be required to post or file the payment bond required in subdivisions (a) and (b). This subdivision shall apply to all contracts entered into subsequent to January 1, 1971.

The amendment to this section made during the 1980 portion of the 1979–80 Regular Session of the Legislature by Chapter 293 of the Statutes of 1980, does not constitute a change in, but is declaratory of, existing law.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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